

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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FISCAL IMPACT STATEMENT

LS 7415

BILL NUMBER: SB 438

NOTE PREPARED: Jan 7, 2015

BILL AMENDED:

SUBJECT: State and Local Tax Issues.

FIRST AUTHOR: Sen. Hershman

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: Pending

Summary of Legislation: The bill contains the following provisions:

Administrative Procedures: It codifies the attorney-client and deliberative process privileges.

Definition of Temporary Storage: It specifies that the definition of "storage" for purposes of the use tax does not include temporary storage of property for not more than 60 days for the purpose of the subsequent use of the property solely outside Indiana.

Sales Tax Refunds: It removes the 36 month rolling time limit on filing refund claims for utility purchases exempt from Sales and Use Tax (SUT).

Sales Tax Exemption - Medical Equipment: The bill amends the Sales Tax exemption for medical equipment, supplies, and devices to: (1) restate the application of the Sales Tax exemption for medical equipment, supplies, and devices; and (2) provide a Sales Tax exemption for food, food ingredients, and dietary supplements that are sold by a licensed practitioner or pharmacist.

Sales Tax Exemption - Prescribed Food: It amends the Sales Tax exemption for drugs, insulin, oxygen, blood, or blood plasma to restate the application of the sales tax exemption.

Sales Tax Exemption - Prescription Drugs: It repeals the Sales Tax exemption for food and food ingredients prescribed as medically necessary by a physician.

Sales Tax Exemption - Research and Development: It amends the definition of "research and development

activities" for purposes of the sales tax exemption for research and development equipment and property.

Sales Tax - Double Direct Test: It eliminates the double direct test currently applied in the Sales Tax exemption for recycling machinery, tools, and equipment.

Retail Merchant Certificates: It provides guidance on when a retail merchant's certificate may be revoked.

Notification Requirements: It establishes standards governing the date by which a taxpayer must notify the Department of State Revenue (DOR) of a modification of a taxpayer's federal income tax return or tax liability for a taxable year.

Withholding Tax Filings: It requires an employer to file annual withholding tax reports (Form WH-3) not later than 31 days after the end of the calendar year.

Income Tax Refunds: It removes the two-year time limitation for refund of employment tax withholdings.

Research Expense Credit: It provides that "base amount" and "qualified research expense" for purposes of the state research expense credit have the same meaning as those terms are defined under the Internal Revenue Code (IRC). It specifies that the federal research and development credit used for purposes of calculation of the Indiana research expense credit is the same as the federal research and development credit allowed under the IRC.

Indiana Earned Income Tax Credit: It specifies that federal Earned Income Tax Credit (EITC) used for purposes of calculating the Indiana EITC is the same as the federal EITC allowed under the IRC. It also Removes outdated references to earned income tax advance payments.

Special Fuel Tax: It amends the special fuel tax law to specify that the tax applies to biodiesel produced at a biodiesel manufacturing plant located in Indiana.

Biodiesel Definition : It defines "biodiesel manufacturing plant" as a facility or operation located in Indiana that manufactures or produces biodiesel.

Tobacco Tax: It eliminates the ability to purchase cigarette tax stamps using a letter of credit.

Motor Carriers: It permits the DOR revenue to deny an application for a motor carrier in certain situations.

Income Tax Filing Extensions: It provides that, if a person is allowed an extension of time by the Internal Revenue Service to file a federal income tax return, the corresponding due dates for the person's Indiana income tax returns are automatically extended for the same period as the federal extension.

Tax Warrants: It provides that a tax judgment may be released and a tax warrant expunged if the Commissioner of the Department of State Revenue determines that the release of the tax judgment and the expungement of the tax warrant are in the best interest of the state.

Protest Procedures: It aligns the administrative procedures for protesting refund denials and proposed assessments.

Interest Application: It provides that the interest required to be paid on an overpayment of tax begins to

accrue: (1) on the date the tax was due; or (2) the date the tax was paid; whichever is later. It provides that the interest rate that applies to an excess tax payment is the same as the interest rate established by the Commissioner of the Department of State Revenue for failure to file a return. The bill provides that, in the case of a refund claim exceeding \$10,000, the interest rate that applies to an excess tax payment is the same as the interest rate as computed on the return of state investments.

Commercial Motor Vehicle Fee: It provides that fees paid for the registration of commercial motor vehicles and collected by the department of state revenue must be deposited in the motor carrier regulation fund.

Captive Insurer Definition: It amends the definition of "captive insurer" for insurance regulation and taxation purposes.

Wheel Tax Collection Fee: It provides that the department of state revenue may charge a fee to a vehicle owner for collecting the wheel tax. It specifies that the fees collected must be deposited in the motor carrier regulation fund.

Tax Court: It changes the Tax Court's standard of review of Department of State Revenue decisions.

It also makes technical corrections and conforming amendments.

Effective Date: July 1, 2015.

Explanation of State Expenditures: *As of the above date, the fiscal analysis of this bill has not been completed. Please contact the Office of Fiscal and Management Analysis for an update of this fiscal impact statement.*

Explanation of State Revenues:

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected:

Local Agencies Affected:

Information Sources:

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